Screened by NARA (RD-F) 08-13-2018 FOIA # none (URTS 16306) DOCID: 70105124 FORENSIC PATHOLOGY AND MEDICAL EXAMINER-RELATED FINDINGS AND CONCLUSIONS PERTAINING TO THE INVESTIGATION OF THE DEATH OF VINCENT W. FOSTER, JR.

We were provided unrestricted access to all available investigative and scientific information and materials regarding the death of Vincent W. Foster, Jr., including information developed by the Unites States Park Police, the Federal Bureau of Investigation and the FBI Laboratory, the Office of the Chief Medical Examiner, Commonwealth of Virginia, and its Northern Virginia District Office, and the Office of the Independent Counsel. We examined photographs taken at the scene of death and during the course of the postmortem examination, and microscopic slides prepared from tissues obtained at autopsy. We discussed the investigative and scientific findings of the case with the investigative and laboratory personnel responsible for each aspect of the investigation.

The analysis and conclusions of our review, as discussed below, were arrived at separately and independently by each of us.

ISSUES AND CONCLUSIONS

1. CAUSE AND CIRCUMSTANCES OF DEATH

The bullet wound of Mr. Foster's head and brain, with its vital reaction, represents the definitive cause of his death.

The postmortem findings demonstrated in this case are typical and characteristic of such findings in deaths due to intentional self-inflicted intraoral gunshot wounds. Following complete postmortem examination, there was no other trauma identified that would suggest a circumstance other than suicide. In addition, it is exceedingly unlikely that an individual of Mr. Foster's physical stature (6 feet 4 1/2 inches in height, 197 pounds in weight) could have been overcome by an assailant inflicting an intraoral gunshot wound without a struggle and there not to have been some other injury sustained at the time.

2. BULLET PATH

The large quantity of gunpowder residue present on microscopic sections of the soft palate indicates that Mr. Foster placed the barrel of the weapon into his mouth with the muzzle essentially in contact with the soft palate when he pulled the trigger. Recovery of Foster's DNA type from the muzzle of the revolver by the FBI Laboratory is strong supportive evidence that associates the weapon with the deceased. The absence of visible blood on the revolver is not inconsistent with the self-inflicted

bullet wound he sustained. Visual or chemical identification of blood on the weapon in gunshot wound suicides is a common but by no means universal finding. There were no flame burns from the muzzle blast identified within the mouth, nor would injury of such type necessarily be expected.

The bullet perforated the soft palate, entered the cranial cavity directly to the left of the foramen magnum, contused the left side of the brainstem, grazed the medial aspect of the left cerebral hemisphere and exited through the occipital skull and scalp. This wound caused instantaneous, complete incapacitation, followed by clinical death within a matter of minutes. There was a secondary, ring-like fracture of the skull, a common associated finding in such cases, that extended symmetrically from the base of the skull across the calvarium.

3. LOCATION OF FATAL EVENT

It is our opinion that the death occurred where the body was found at Fort Marcy Park, Virginia. The relatively pristine nature of the exposed skin surfaces of the deceased and of his clothing precludes any other scenario. Substantially greater contamination of skin surfaces and clothing by spilled and/or smeared blood would have been unavoidable, had the body been transported postmortem to the place where it was found. Precisely such contamination was, in fact, documented following actual transport of the body from the scene of death to Fairfax Hospital, and from there to the medical examiner's office. There was no such contamination when the body was examined and photographed at the scene.

4. TIME OF DEATH

Given the limitations of available information, it is not possible further to define the postmortem interval than within the broad range of when the deceased was last seen alive to the time the body was discovered.

5. TOXICOLOGY

Toxicological examination by the FBI Laboratory of blood obtained at autopsy revealed trace amounts of trazodone and small quantities of diazepam (Valium) and its metabolite, nordiazepam. The finding of trazodone, an antidepressant, confirms the history of Foster's taking a single tablet the evening prior to his death from a prescription ordered by his doctor earlier that day. There was no alcohol or any other toxic substance in Foster's body.

6. POSITION OF THE BODY

The deceased was found supine, with his arms and legs extended. Given the steep (approximately 45 degree) slope on which his body was resting, we believe that he was seated when the weapon was discharged. After firing the weapon, because of the sloped terrain, he would have fallen backward, with his arms falling to their respective sides by gravity, aided on the right by the weight of the revolver affixed to his thumb (see below, number 8). Had he been standing, he would not have ended up in the orderly position in which he was found. Had he been lying down, it is likely that the bullet would have been recovered from the ground beneath his head. It was not. Bullet-generated trauma to the brainstem would have rendered Mr. Foster instantly unconscious and unresponsive.

Although the amount of extravasated blood at the scene of death was characterized by some observers as being less than the expected quantity, a pool of blood was, in fact, found under the head of the deceased when the body was turned, and the upper back of his shirt was noted to be blood soaked. These observations notwithstanding, any relative lack of extravasated blood can be readily explained by the position of the body on the steeply inclined slope, with blood settling postmortem to the dependent portions of the body, i.e., below the level of the head wounds, and by the prompt cessation of cardiovascular activity incident to the bullet wound injury of the brainstem.

7. POSITION OF THE HEAD

According to multiple observers at the scene, the head was facing forward when Foster's body was found, an observation confirmed in scene photographs. There were linear blood stains coursing across the right side of the face, emanating from the nose and mouth. A broad transfer-type blood smear was present at the right side of the chin and neck, precisely corresponding to a similar blood stain of the right collar area of the shirt. For obvious reasons, the head must have been facing to the right when the body was found or have been turned to the right when the body was being examined at the scene. In either circumstance, blood accumulated in the nose and mouth from the bullet defect of the soft palate and base of the skull would have spilled over the face and soiled the right shoulder and collar of the shirt. finding of the head facing forward and the right sided blood stains are mutually exclusive. We conclude that a rightward tilt of his face was changed to a forward orientation by one of the early observers before the scene photographs were taken.

8. POSITION OF THE WEAPON

Scene and autopsy photographs demonstrate that Mr. Foster's right thumb was trapped and compressed between the trigger and

the front of the trigger guard. In addition, there was gunpowder residue on the surface of his right index finger facing the thumb, extending from the distal joint to the web area of the thumb and, according to the autopsy report, similar material, but of lesser quantity, at the corresponding aspect of the left index finger. With the barrel of the revolver placed into the decedent's mouth, the only source of such gunpowder would be the gap between the cylinder and the frame of the weapon. Multiple test firings of the revolver in the FBI Laboratory conclusively demonstrated that gunpowder residue escapes from its cylinder gap. The laboratory studies and the anatomic findings indicate that Mr. Foster's index fingers were in the vicinity of the cylinder gap when the weapon was fired. In addition, flecks of scattered stippled material were observed on the skin surfaces of the lower face in scene photographs and in those autopsy photographs taken before these surfaces were washed. markedly reduced their number. The origin of this material, i.e., whether it represents gunpowder residue, blood spatter or some other foreign material, is uncertain.

SUMMARY

We conclude that Mr. Foster died from a self-inflicted bullet wound delivered with suicidal intent and that the death occurred where the body was found, at Fort Marcy Park, Virginia.

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BODY OF EVIDENCE

When coroners and medical examiners fail to distinguish accidents from murders from suicides, a botched autopsy can be the death of a fair trial, an insurance settlement or a civil suit

BY MARK HANSEN

hen the bloody and partially clothed body of Susan Negersmith was found in a Wildwood, N.J., alley in May 1990, her death was ruled an accident, caused by a lethal combination of alcohol poisoning and hypothermia.

More than three years later, police reclassified the death of the 20-year-old vacationing college student from upstate New York as a homicide, after an outside expert hired to review the original autopsy findings concluded that Negersmith had been raped and strangled.

To this day, though, Negersmith's death certificate lists her death as an accident, despite an ongoing police search for her killer. Last year her family, which has waged a five-year battle to amend her death certificate, sued state and county officials in a last-ditch attempt to force them to change it to murder. The suit is still awaiting trial.

Kent Negersmith, the victim's father, says he is not in it for money. He only wants to help prosecutors in the event his daughter's killer is caught. They have told him it would be a lot harder to prove his daughter was murdered if her death certificate records her death as an accident.

"I don't know about anybody or anyplace else," he says, "but the way this thing has been handled stinks to rotten heaven."

At least when Philip Mancini was found dead in his bed one morning in October 1993, Dr. Lawrence Mapow, the former Cumberland County, N.J., medical examiner who conducted the autopsy, got the manner of death right.



While police search for the killer of Kent Negersmith's daughter (photo), he fights to change her "accidental death" ruling.

Mapow ruled that Mancini, a popular high school teacher, had been murdered.

It was on the cause of death that Mapow went astray. Mapow concluded that Mancini, who reportedly had received death threats from three of his students in the

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weeks before his murder, had been killed by three blows to the head

with a blunt instrument.

Yet a second autopsy performed just hours before a scheduled cremation turned up no evidence of a beating. Instead, it uncovered two small-caliber bullets—one lodged in the base of the skull, the other buried in the folds of the brain—and led police to suspect that a family member may have been involved in the crime.

Joseph O'Neill, the family's lawver, says Mancini's widow and children feel as though they have been victimized repeatedly: first by the murder, and then by the

botched autopsy.

The only reason the family has not sued over what has happened to them, O'Neill says, is because New Jersey law makes it difficult, if not impossible, to recover damages for

The qualifications and training of medical examiners affect the accuracy of their forensic reports. As in this Chicago double homicide, much rests on their expertise.

emotional distress in a malpractice claim against a medical examiner.

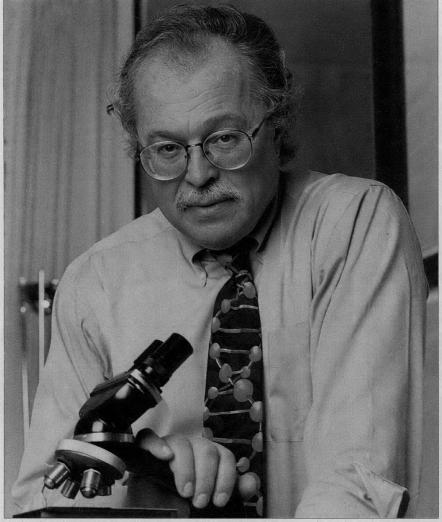
About the time Mancini's body was discovered, just the opposite confusion over the manner and cause of death was unfolding in another murder case across the state. That case had begun more than a year earlier, when an Ocean County, N.J., man found unconscious in a parking lot was taken to a hospital with what the police described as a gunshot wound to the head. After 49 days in a coma, the victim, Robert Webb, died.

The doctors who initially examined the patient were skeptical. Webb had a laceration over the left eye, but there was no evidence of a penetrating wound, and X-rays showed no signs of a bullet. Yet their primary concern was to treat the injury, not to figure out what may have caused it.

Dr. James Kaye, the county medical examiner, assigned the autopsy to a hospital pathologist, who apparently accepted the police account of what had happened at face value. He not only certified the cause of death as a gunshot wound but dutifully described the path of a bullet through the victim's head. Afterward, a suspect, Willie Simpson, was arrested and charged with the crime.

The only trouble was, as shown in a review of the original autopsy report by an outside expert in preparation for Simpson's trial, Webb had not been shot. He died of blunt force trauma, according to the expert, whose findings were consistent with the account of an eyewit-

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Michael Baden: "We're still living in the Dark Ages" in terms of death investigations.

ness who said the victim had been hit in the head with a brick thrown by somebody other than the defendant. Charges against Simpson were dropped, but no one else has been prosecuted.

Robert Konzelmann, the assistant public defender who represented Simpson, says he was not surprised by the turn of events in the case against his client. Konzelmann says he once represented a man charged in the stabbing death of another man who was later found to have died from a beating.

"The closer you look at some of these autopsy reports, the more you find," he says.

hen most people think of death investigations, they probably think of the popular 1980s television show "Quincy," in which the title character, a medical examiner, could crack the toughest murder case in the course of an hour without even breaking out in a sweat. But reality is nothing like the TV version. Far from being an isolated outrage, mistakes such as the ones that occurred in New Jersey are more common than the average "Quincy" fan would dare imagine. Nor are they in any way unique to New Jersey, which is generally believed to have one of the better death investigation systems in the nation. New Jersey has a state medical examiner system, headed by a forensic pathologist who oversees the work of county medical examiners, all of whom are doctors.

"What has happened in New Jersey happens all over the place, all the time," says Dr. Claus Speth, a consulting forensic pathologist in Woodbury, N.J., who discovered the two bullets in Mancini's body. "For every case you hear about, there are hundreds more like it. And every one of them is just as outrageous."

Others suggest that Speth, who has been at odds with the New Jersey medical examiner establishment for years, may be prone to exaggeration. Speth quit his job as the Gloucester County, N.J., medical examiner in 1991 after a report that was highly critical of his performance. He has been a loud and frequent critic of the system ever since.

But even if Speth overstates the case, he is not alone among his peers in offering a dismal assessment of the way death investigations are conducted in many parts of the nation.

Nobody knows how many murders go undetected, how many killers go free, how many innocent

What They Do

- Coroner: Typically an elected official who decides whether a death occurred under circumstances that require an autopsy, either by law or to determine manner or cause. A coroner can determine the scope of an autopsy and who will perform it if the elected coroner is not qualified. Only Kansas, Louisiana, North Dakota and Ohio require, without exceptions, that coroners be medical doctors.
- Medical examiner: Usually a medical doctor, although not necessarily a highly trained pathologist. Like a coroner, a medical examiner decides whether a death occurred under circumstances that may require an autopsy and who will perform it if the medical examiner is not qualified. A medical examiner is usually appointed to the position and may have jurisdiction for a county, district or state.
- Pathologist: A medical doctor with specialized training to diagnose and interpret bodily changes caused by disease in tissues and fluids.
- Forensic pathologist: Has advanced training to investigate and analyze unnatural deaths caused by traumatic injuries, such as gunshot and stab wounds, blunt force and poison.

people are convicted of a crime that never occurred or how many suicides are covered up in deference to the next of kin.

"It probably happens more often than we know of, or would like to think," says Dr. Boyd Stephens, chief medical examiner for San Francisco. "But if everything's not done properly in the beginning, nobody's usually ever going to know whether a mistake was made or not."

nterviews with more than three dozen coroners, medical examiners, forensic pathologists, legal experts and people who claim to have been victimized by the system paint a disturbing picture of a process that is, at best, woefully inAges" when it comes to death investigations, says Dr. Michael Baden, director of the New York State Police forensic sciences unit and the outside expert who reviewed the autopsy reports on crime victims Negersmith and Webb. "It's a national disgrace."

Dr. Werner Spitz, former chief medical examiner for Wayne County, Mich., and a consulting forensic pathologist near Detroit, estimates that up to 70 percent of the nation is poorly served by its system for investigating unnatural deaths.

Is this an enlightened system?" he asks. "No, it's not. It's really no better than what they have in many Third World countries."

Death investigators, be they coroners or medical examiners, wield responsible for certifying the cause and manner of death.

Of the nearly 2.2 million deaths reported in the United States in 1992, almost 7 percent, or nearly 143,000 deaths, were classified as unnatural, according to the U.S. Department of Health and Human Services' Division of Vital Statistics.

As a rule of thumb, autopsies are performed in about half of all the deaths that end up being investigated. About 95 percent of the time, the cause and manner of death are readily apparent. It is the remaining 5 percent or so of cases in which the answers are not always so obvious.

The importance of a proper death investigation cannot be overestimated, up to and including the

possibility that it could lead to criminal prosecution. A death certificate can either compound a family's grief or bring peace of mind.

And the investigation can be used to settle a range of legal issues, from insurance coverage to death benefits to civil liability.

On a larger scale, death certificates can help expose product defects, uncover new diseases such as AIDS, and identify emerging social problems such as child abuse. And taken as a whole, they constitute the basis for mortality statistics on which much of the nation's health care policy is set.

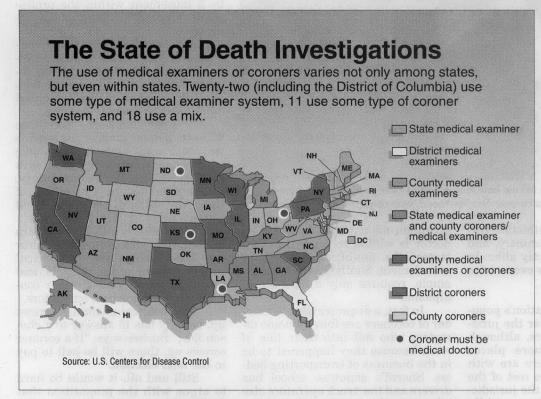
Moreover, in the case of a public figure or celebrity, allegations of a faulty inves-

tigation can become a source of last-

ing controversy.

The most notable example is the one still surrounding the assassination of President Kennedy in Dallas 32 years ago. The most recent is the one following the murders last June of Nicole Brown Simpson and Ronald Goldman, for which O.J. Simpson is on trial.

To understand the way the system operates, it is important to note that even the use of the word "system" to describe a process that encompasses more than 3,000 individual jurisdictions is a misnomer.



adequate and, at worst, often inept.

That is not a surprising assessment when you consider that, in many parts of the country, death investigators may not always know what they are doing. Many of the ones who do are expected to work under some of the most trying circumstances imaginable.

And that does not even take into account the possibility, however remote, of bodies getting mixed up in the morgue or scavenged for parts, both of which have been known to happen.

"We're still living in the Dark

enormous power. In most states, by law, all unnatural deaths-including but not limited to homicides, suicides and accidents—are supposed to be investigated. So, too, in many states, are sudden, unusual, suspicious, unattended or drug-related deaths.

But it is the medical examiner or the coroner who determines the course and scope of any investigation, including whether an autopsy, X-rays or toxicology tests should be done and, if so, who should do them. And it is the medical examiner or the coroner who is ultimately



"When I need somebody to tell me how long a body's been in the ground, I know who to call," says South Carolina coroner Sue Townsend, who considers herself a liaison.

There is no uniform method for certifying deaths in this country, and no two states do it exactly alike. In some states, the process even varies from county to county.

oughly half the nation's population comes under the jurisdiction of coroners, although there are far more places with coroners than there are with medical examiners. The rest of the population falls under the jurisdiction of medical examiners, usually a doctor who is appointed to the job based on merit.

Coroners are usually laypeople who are elected to their jobs. Even today, the qualifications for becoming a coroner, where they exist, typically only address such variables as age, residency and voting status.

Only four states, Kansas, Louisiana, North Dakota and Ohio, require that a coroner be a doctor. In North Dakota, the requirement only applies to counties with more than 8,000 people. Louisiana makes an

exception for parishes in which no doctor is willing to serve. In other states, the qualifications are far more lenient. South Carolina, for example, requires only a high school diploma.

In fact, a disproportionate number of coroners are funeral home directors who fell into their line of work because they happened to be in the business of transporting bodies. Sheriff's deputies, school bus drivers and tow truck operators also have served as coroners. So have gas station attendants, tavern owners, jewelry salesmen and accountants.

To be sure, some coroners do exemplary work. And a well-trained coroner who recognizes his or her own limitations can do a better job than a doctor with little or no training in investigating deaths.

"I'm not an expert in anything," says Sue Townsend, the plain-spoken Aiken County, S.C., coroner and president of the South Carolina Coroners Association. "I consider myself a liaison. And when I need

somebody [like an entomologist] to tell me how long a body's been in the ground, I know who to call."

Few coroners have had any formal medical training. Many operate on a shoestring budget, which forces them to cut corners whenever and wherever they can. And too many rely for autopsies on hospital pathologists, who are trained to study the ravages of disease, not to reconstruct how somebody died.

"Asking a hospital pathologist to do an autopsy on the victim of a violent death is like asking a dermatologist to perform brain surgery," says Baden of the New York State Police.

Many coroners insist there is nothing wrong with the system that is not already being addressed by a movement within the profession to improve training and qualifications.

And they point out that a majority of states with coroner systems, South Carolina included, recently have upgraded requirements for the office and implemented mandatory on-the-job training.

"It really makes no difference who sits behind the desk as long as you know what to do and you have good people working for you," says Herbert Buzbee, the Peoria County, Ill., coroner and past president of the International Association of Coroners and Medical Examiners.

Since nearly all coroners are elected, they also contend that they are less susceptible to political pressure from other officials and are more accountable to their constituents than medical examiners.

"If a medical examiner screws up, he only has to answer to a chosen few," Buzbee says. "If a coroner screws up, there will be hell to pay in the next election."

Still and all, it would be hard to argue with the proposition that death investigations would best be left in the hands of experts, especially in an age of rapidly advancing technology in the field of forensic science, such as DNA analysis on hair and bones.

hat is not to say that medical examiner systems do not come with their own, individualized set of problems.

Only a handful of the states and some of the largest urban areas with medical examiner systems require that death investigations be conducted by board-certified or board-eligible forensic pathologists, specialists with advanced training in analyzing traumatic injuries such as blunt force, poison, and gunshot

and stab wounds.

A major problem is the shortage of skilled personnel. Of the nearly 671,000 doctors licensed to practice in the United States, less than 3 percent, or 17,149 doctors, are specialists in pathology, according to the American Medical Association.

Only 435 of them are boardeligible forensic pathologists, of whom 335 are board-certified. Not all forensic pathologists are working full time; at least 12 states do

not employ any at all.

One reason there are not enough qualified professionals to go around is the work itself, which can be both dirty and demanding. Medical examiners are on call 24 hours a day. Their caseloads can be crushing. Many of their offices are chronically understaffed and ill-equipped. And they must be comfortable spending a lot of their time in court.

"It takes a special kind of person to do this type of work," says Dr. Patricia McFeeley, New Mexico's assistant chief medical investigator. "[The job] may be a lot of things, but it's never boring."

The relatively poor pay of a medical examiner does not help the

situation, either.

While a pathologist must spend an additional year in training and pass another set of board exams to become certified in forensic pathology, he or she is likely to make far less money than a hospital pathologist in private practice. Most medical examiners earn less than \$100,000 a year, while a hospital pathologist can earn twice as much or more.

As a result, many medical examiners supplement their income by moonlighting. Some earn more in consulting fees than they make from their jobs as full-time medical examiners.

The political aspects of the job can be another big drawback. Medical examiners are subject to a variety of pressures from competing interests. Although most of them are appointed, they work at the pleasure of elected officials, who may have a vested interest in the outcome of an investigation.

And while many medical examiners would deny ever having been pressured to change their findings, the nature of the job is such that they cannot avoid stepping on toes.

"If a decision helps the prosecutor, it hurts the defense. If it helps the insured, it hurts the insurance company," Baden says. Texas counties who pleaded no contest in 1992 to charges of faking or botching hundreds of autopsies over a nine-year period. He was placed on 10 years' probation, ordered to perform 200 hours of community service and forced to give



After spending six months in jail in the murders of his wife and daughter, Kenneth Reno is a free man due to revised autopsy findings by outside forensic pathologists.

"It's very awkward to be a doctor in the public sector."

Also, in the larger scheme of things, the needs of the medical examiner's office typically are regarded as a low priority. After all, its only constituency is the dead. And the dead, as more than one medical examiner is quick to point out, don't

he legacy of "Quincy" notwithstanding, the profession also has been suffering from something of a public image problem lately. For that, it has people like Ralph Erdmann to blame.

Erdmann is the former medical examiner for more than 40 west up his medical license.

Erdmann aside, most medical examiners maintain that the incidence of fraud or incompetence within the profession is extremely

But they acknowledge that even a well-run, well-equipped, welltrained medical examiner's office can offer no guarantees that a mistake will not be made, an autopsy will not be botched, a piece of evidence will not be mishandled or misplaced, or a difference of opinion between experts will not arise.

"We're only human," says one veteran medical examiner who did not want to be identified. "We all make mistakes. I know I've made a

few myself. ... What troubles me the most are the ones I don't know about, which I hope are minimal."

enneth Reno knows all too well what can happen when something goes wrong. In 1991, the Detroit-area man spent nearly six months in jail awaiting trial for a double murder he did not commit.

Reno was watching television with his 21-year-old daughter, Robin, one night when he broke his dentures on a kernel of popcorn. His wife, Carlynne, was in bed, asleep.

He went to the store to get some glue, and when he returned a half-hour later he found his wife dead and his daughter mortally wounded. Each had been stabbed more than a dozen times.

When he asked his daughter who had stabbed her, he says she replied, "Tommy ... Tom Collins." When he asked her who Collins was, he says she identified him as a friend of the father of her 2-year-old daughter.

Moments later, Reno's daughter died. The next day, Reno was charged with two counts of murder. He was prosecuted mainly on the

Questionable Guilt

Depending on which medical expert prevails, the interpretation of an autopsy report can set you free—or send you to prison

y all outward appearances, 11-month-old Melissa Mathes was her usual, playful self when her baby sitter picked her up at her parents' home the morning of Jan. 22, 1993.

Forty-two minutes later, the Marshalltown, Iowa, girl stopped breathing on the living room floor of her baby sitter's home. The next morning, she died.

An autopsy revealed that Melissa had sustained severe head injuries, including a massive skull fracture, a large blood clot and extensive bleeding around the brain, in the five to 10 days before her death. It also disclosed a fresh bruise on the front of her brain and new bleeding around the brain and in the eyes.

But the team of doctors who either treated the girl or who investigated her death concluded that the older injuries had not killed Melissa. They determined that the girl's more recent injuries showed she had been shaken or slammed to death during the 42 minutes she was alone with the baby sitter, Mary Weaver.

That was about all the evidence prosecutors needed to convict Weaver, the 41-year-old mother of two small children, last year of first-degree murder. Weaver, who was sentenced to life in prison without parole, is appealing her conviction to the Iowa Supreme Court, which heard arguments April 4.

Critics say the Weaver case illustrates the kind of weight that

even the most contested medical evidence from a coroner or medical examiner can carry. It also demonstrates what can happen when more credibility is placed in the supposedly detached and objective opinions of one set of so-called experts over another.

There is no disputing the fact that Melissa was brutally murdered. An expert for the prosecution said her injuries were consis-



Mary Weaver: Convicted in death of Iowa baby.

tent with a fall from a three-story building. And an expert for the defense described her injuries as something akin to being swung by the ankles like a baseball bat against a brick wall.

Yet there are plenty of people

in Marshalltown, a farm-based community of 26,000 in central Iowa, who believe that Weaver, a well-liked and deeply religious woman with no history of violence or abuse, is innocent. And there would seem to be enough questions surrounding the case to at least raise the possibility of reasonable doubt.

The evidence against Weaver was highly circumstantial, relying largely on the hotly disputed testi-

mony of a handful of state medical experts who discounted the seriousness of Melissa's earlier injuries.

They contended that those injuries, which they alone claimed never were lifethreatening, were actually in the process of healing when she died.

No attempt was made to account for the cause of those injuries, which all but one of the experts on both sides agreed were seven to 10 days old

The one exception was Dr. Thomas Bennett, a forensic pathologist and the state's medical examiner, who concluded that the skull fracture was five days old, coinciding with the date Weaver had

last taken care of Melissa.

The prosecution's experts focused instead on the girl's more recent injuries, all of which they said could only be explained by a violent episode of shaking or slamming that occurred just prior to the time

strength of an autopsy report that stated his daughter's vocal cords had been cut, rendering her inca-

pable of speech.

Despite the autopsy report, Assistant Wayne County Prosecutor Dan Less had doubts about Reno's guilt. Reno did not know the man he says his daughter named as her killer. And it did not make sense for him to make up the story because the whereabouts of the man he had accused could easily be checked.

The autopsy report on Reno's wife provided another clue that something was amiss. It stated that the woman had natural teeth that were still intact, when Less knew the victim had false teeth that had been knocked out during the attack.

So the prosecutor asked four outside experts, including a throat specialist, to review the autopsy report and Robin Reno's larynx, which had been preserved as evidence. All four concluded that her vocal cords had not been cut, making Reno's story all the more credible.

Six months later, Tom Collins, the man Reno's daughter had identified as her assailant, was arrested for a burglary. Eventually, he confessed to the killings and was sen-

tenced to life in prison.

In his confession, Collins implicated the child's paternal grandmother, Linda Lambert, who he says wanted Robin Reno dead so that she could get custody of her granddaughter. Lambert was subsequently convicted of breaking and entering, and two counts of manslaughter, for which she is now serving a 6½- to 15-year prison sentence.

Reno, who went on to sue the police for false arrest and malicious prosecution, reached a settlement last year for an undisclosed amount of money. He is still appealing the dismissal of his suit against the medical examiner's office, which a judge has ruled is protected by governmental immunity.

"There needs to be some kind of safeguards put in place," Reno says of the system. "It might cost a little more money, but where there's a life involved, it would be worth it."

nfortunately, while the system's shortcomings may be all too obvious, a solution is much more elusive (see page 69). Some forensic pathologists suggest giving medical examiners civil service status or allying them more closely with medical schools, which have a strong tradition of independence.

Some advocate setting up regional forensic science centers that would offer continuing education and the services of an expert as needed; others propose the creation of a private system that would operate on a fee-for-service basis.

But nearly all agree on the need for higher salaries to lure more bright doctors to the field, a uniform set of national standards to govern the profession, better training for employees to minimize the potential for error, and improved funding to ensure that each investigation gets the attention it deserves.

The public should demand no less.

she stopped breathing in Weaver's home.

The defense countered the state's medical evidence with testimony from several expert witnesses of its own, including that of two well-known forensic pathologists: Dr. Earl Rose, the retired director of pathology at the University of Iowa's medical school, and Dr. Vincent DiMaio, the chief medical examiner for San Antonio, Texas.

Both concluded that there was no evidence showing that Weaver had harmed Melissa. Both said the girl already had been critically injured and was in danger of dying when Weaver picked her up from

her mother's.

And both attributed the girl's death to a re-bleeding of her previous injuries, which they said could have begun spontaneously or with only the slightest provocation.

"This kid could've died if you so much as looked at her too hard," Di-

Maio said in an interview.

Some of the strongest evidence in Weaver's favor was never even introduced at her trial. Marshall County District Judge Carl Peterson, who decided the case without a jury, would not allow testimony from a cemetery worker who said that Melissa's mother had inquired about the cost of a grave site about a month before her daughter died, which she denied.

The judge also refused to allow an expert on child abuse to testify that child abusers are sometimes abused as children, as Tessia Math-

es had testified she was.

Weaver's first trial, which included the evidence that Peterson excluded from the second trial, ended in a hung jury. But Weaver, thinking that a judge would better understand the medical evidence, elected to be retried without a jury.

It was a decision that would come back to haunt her. Peterson, who found Weaver guilty, described the state's case in his verdict as overwhelming. While acknowledging that there was no direct evidence that Weaver had hurt Melissa, Peterson concluded that Weaver was alone with the girl when the fatal injuries were inflicted and that those injuries could not have been inflicted accidentally.

In the wake of Weaver's conviction, however, two new witnesses came forward separately to say that Mathes told them Melissa had hit her head on a table at home before Weaver picked her up on the

day she stopped breathing.

Their accounts differ from Mathes' testimony that Melissa had bumped her head that morning on the padded footrest of a reclining chair before Weaver arrived.

But the newly offered testimony did not persuade the judge to grant Weaver a new trial. Peterson ruled that the two statements were hearsay, which rendered them in-admissible. And he held that the evidence, even if admissible, would not have changed the outcome.

The Iowa Attorney General's office, which represents the state on appeal, stands by Weaver's conviction. Assistant Attorney General Roxann Ryan, one of the lawyers handling the appeal, said the case against Weaver was especially strong. "If I wasn't convinced of her guilt, I wouldn't be able to proceed with the appeal," she said.

But Stephen Brennecke, who was Weaver's friend before becoming her trial lawyer, said he has no doubt that Weaver is innocent.

Thousands of people are absolutely convinced Mary Weaver is innocent. They know time will prove them right."

-Mark Hansen

Solving the Problem

A team of forensic pathologists and a statewide network make New Mexico's medical examiner system a model for the nation

The search for ways to improve the nation's chaotic system for death investigations easily could begin and end in New Mexico, according

to several experts.

The New Mexico operation not only incorporates many features of an ideal system, they say, but also could work almost anyplace with only a few modifications. And, contrary to popular opinion, such a system is not all that expensive to run, experts contend.

The New Mexico system, which serves a population of some 1.5 million, has an annual operating budget of just over \$2.5 million, or about \$1.67 a year per person.

"It's a very enlightened system," explains Dr. Werner Spitz, former chief medical examiner for Wayne County, Mich., and a consulting forensic pathologist near Detroit. "It has been for many years."

What makes the New Mexico system so special? To begin with, New Mexico has a medical examiner system, which is generally believed to be superior to a coroner system. While the vast majority of coroners are laypeople, under a medical examiner sys-

tem, at least a doctor is usually in

charge of the process.

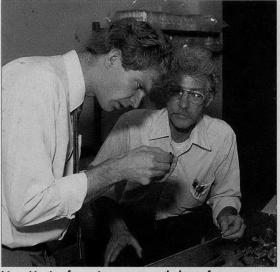
New Mexico also has a statewide system, which experts say is a vast improvement over the hodgepodge of different systems of varying quality existing in many states. A statewide system brings a level of consistency and continuity to the process that is absent in states with mixed systems or multiple jurisdictions, they say.

Beyond that, New Mexico adds a level of expertise not found in many other medical examiner offices. The staff includes five board-certified forensic pathologists—doctors with advanced training in the investigation of unnatural deaths—with a combined total of more than 60 years of experience.

The system, moreover, is affiliated with the pathology department

at the University of New Mexico's School of Medicine, which experts say gives it a measure of independence other systems lack, and offers the advantages of an academic environment.

All five forensic pathologists, who hold the title of medical investigator, are members of the faculty, which gives them the opportunity to teach, do research, publish their findings in medical journals, and



New Mexico forensic experts study bone fragments.

keep abreast of developments in their field. The staff also has a wide range of outside experts at its disposal, from forensic dentists and anthropologists to neuropathologists and infectious disease specialists.

The New Mexico system, by the makeup of its governing body, is further insulated from the political pressures to which many other medical examiner systems may be susceptible. The system is run by a four-member board, consisting of the dean of the medical school, the chief of the state police, the secretary of health and environment and the chair of the board of thanatopractice, which regulates the operation of the state's funeral homes.

As in any good medical examiner system, the New Mexico office does more than death examinations. It provides grief counseling

services to families of children who have been victims of homicides, suicides or sudden infant death syndrome. It conducts training seminars for death investigators with nationwide audiences. It participates in a national reporting program on deaths caused by faulty consumer products. It is also helping to establish a missing persons bureau.

Creating the system included overcoming some difficult challenges, officials say. The state has a land area of more than 121,000 square miles, much of it rugged and desolate. And about two-thirds of the population lives outside of Albuquerque, the state's largest city.

As a result, the system relies heavily on a network of some 130 part-time field investigators, who visit the scene of sudden or unexpected deaths, take custody of the body, conduct an external examination, gather and preserve evidence, collect toxicology samples and comfort the next of kin. Field investigators, usually laypeople with medical backgrounds, undergo 3½ days of training to start and four days of retrain-

ing every other year.

If an autopsy is warranted, the field investigator also arranges for transport of the body to the central Office of the Medical Investigator in Albuquerque. Although about 4,000 of the 10,000 or so deaths in New Mexico each year are referred to the office, only about a third of those result in autopsies, says Dr. Patricia McFeeley, the assistant chief medical investigator.

The system appears to be paying big dividends in the staff's hard-earned reputation for solving mysteries—something it regards as just another part of the job.

"We collect information from the dead to help the living," says Suzanne Fetsco, the system's director of operations. "That's what this work is all about."

-Mark Hansen

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